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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,056	10/03/2000	MICHAEL L. NEEDHAM	CM04455H	6406

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MOTOROLA, INC.  
1303 EAST ALGONQUIN ROAD  
IL01/3RD  
SCHAUMBURG, IL 60196

EXAMINER

LIN, WEN TAI

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/678,056

Applicant(s)

NEEDHAM ET AL.

Examiner

Wen-Tai Lin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2-3.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

1. Claims 1-21 are presented for examination.
2. Claim 6 is objected to because the term "the dispatch call data" appears to lack antecedent basis.
3. Claims 8 and 12-13 are objected to because it is not clear what is meant by "normalized transmission times" [i.e., the plural "times" is confusing: while the specification uses the terms: "normalized transmission delays" and "normalized arrival time", it is not clear whether the word "times" means the number of times a user has transmitted requests or the time delay experienced between the transmitter and the server?].

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

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directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-9, 11-12, 14 and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Maher et al.[U.S. Pat. No. 6298058].

5. As to claims 1-7, Maher teaches the invention as claimed including: a dispatch communication network comprising:

- a plurality of communication hosts [Fig.1];
- a dispatch call server configured to arbitrate internet protocol (IP) communication among a group of hosts of the plurality of hosts [Abstract; col.3, lines 13-23],

wherein:

- the dispatch call server is configured to receive unicast dispatch communication data from one or more hosts of the group of hosts and to transmit the dispatch communication data to one or more destinations over an IP network in an IP multicast format [Abstract, lines 14-18; col.1, lines 6-9]or configured to transmit the dispatch call data in an IP unicast format [col.13, lines 57-60 and 65-67]; and
- the dispatch communication data comprises data representative of speech [col.1, lines 13-16];

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6. As to claim 8, Maher further teaches that the dispatch call server is configured to arbitrate communication among the group of hosts based on normalized transmission times from the one or more transmitting hosts [col.1, lines 25-29; i.e., different transmission sources may introduce different transmission delays].

7. As to claim 9, Maher further teaches that the dispatch call server is configured to arbitrate communication among the group of hosts based on priorities assigned to the one or more transmitting hosts [col.1, 51-60].

8. As to claims 11-12, 14 and 16-18, since the features of these claims can also be found in claims 1-9, they are rejected for the same reasons set forth in the rejection of claims 1-9 above.

9. Claims 1-2, 4-7, 11, 17-19 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Yonemoto et al.[U.S. Pat. No. 6298239].

10. As to claims 1-2 and 4-7, Yonemoto teaches the invention as claimed including:  
a dispatch communication network comprising:

- a plurality of communication hosts [Figs.1, 7 & 12; col.12, lines 61-67]; and

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- a dispatch call server configured to arbitrate internet protocol (IP) communication among a group of hosts of the plurality of hosts [Fig.12; col.15, lines 44-50],

wherein:

- the dispatch call server is configured to receive unicast dispatch communication data from one or more hosts of the group of hosts and to transmit the dispatch communication data to one or more destinations over an IP network in an IP multicast format [i.e., broadcasting to a selected group of users such as 3100-3104 of Fig.12] or configured to transmit the dispatch call data in an IP unicast format [e.g., transmission between 3200 and 3000 of Fig. 12 is via unicast format].

11. As to claims 11, 17-18 and 21 since the features of these claims can also be found in claims 1-2 and 4-7, they are rejected for the same reasons set forth in the rejection of claims 1-2 and 4-7 above.

12. As to claim 19, Yonemoto further teaches: determining a first wait time for communication from the one host; waiting a time at least equal to the first wait time; and after the first wait time, accepting transmissions from the one host [col.2, line 46 – col.3, line 6].

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 3, 8 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonemoto et al.(hereafter "Yonemoto")[U.S. Pat. No. 6298239], as applied to claims 1-2, 4-7, 11, 17-19 and 21 above.

15. As to claim 3, Yonemoto's system directs information to groups of pagers. Yonemoto does not specifically teach that the dispatch communication data comprises data representative of speech.

However voice-based information using the Internet as communication medium is well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made that Yonemoto's call-group system may include voice data because by doing so the pagers of Yonemoto's system may be easily extended to cellular phones, which may directly receive voice message, thereby greatly advancing the application of Yonemoto's system.

16. As to claim 8, Yonemoto further teaches that the dispatch call server is configured to arbitrate communication among the group of hosts based on transmission delays established for each of the one or more transmitting hosts.

Yonemoto does not specifically teach that the delays are normalized transmission delays or normalized round trip time.

However, it is well known that delay introduced by a transmission medium is not constant all the time. Thus it is obvious that the delay value must be based on a normalized measurement (i.e., averaging out of a plurality of measurement), because using a normalized value minimizes the error that may arise as a result of environmental uncertainty.

17. As to claims 12-13, since the features of these claims can also be found in claims 1-8 and 11, they are rejected for the same reasons set forth in the rejection of claims 1-8 and 11 above.

18. Claims 9-10, 14-16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonemoto et al.(hereafter "Yonemoto")[U.S. Pat. No. 6298239], as applied to claims 1-8, 11-13, 17-19 and 21 above, further in view of Lynk, Jr. et al.(hereafter "Lynk")[U.S. Pat. No. 4012597].



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19. As to claim 9, Lynk further teaches that the dispatch call server is configured to arbitrate communication among the group of hosts based on priorities assigned to the one or more transmitting hosts [Lynk: Abstract].

20. As to claim 10, Yonemoto does not specifically teach that the dispatch call server is configured to select one transmitting host for communication and to convey a busy control signal to other hosts of the transmitting hosts.

However, Lynk teaches that when a transmission request is not granted, a busy signal is transmitted to the requester (e.g., start talking).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Lynk's busy signals to Yonemoto's requesters who are waiting for their turns to talk, because by doing so the requesters would know when to start talking without having to try over and over again.

21. As to claim 16, Yonemoto and Lynk do not specifically teach discarding the dispatch call data from the other transmitting hosts.

However, since Yonemoto's and Lynk's could not handle simultaneously transmitted data, it is obvious that one option is to select one that has designated higher priority and discard the other ones (in particular when the system is not equipped to holding simultaneously transmitted data for later dispatching), because this is a simpler way of resolving the conflict.

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22. As to claims 14-15 and 20, since the features of these claims can also be found in claims 1-13, 16-19 and 21 they are rejected for the same reasons set forth in the rejection of claims 1-13, 16-19 and 21 above.

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Sigler et al. [U.S. Pat. No. 5717830].

**24.** A shortened statutory period for response to this action is set to expire 3 (three) months and 0 days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (703)305-4875. The examiner can normally be reached on Monday-Friday (8:00-5:00) .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703)305-8498. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)872-9306 for official communications; and

(703)746-5516 for status inquires draft communication.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Wen-Tai Lin

February 6, 2004

Wen-Tai Lin  
2/6/04